

REMARKS

Claim 1 is amended to incorporate the recitation from dependent claim 5.

In response to the restriction requirement set forth in the Office action, applicants hereby elect Group I, claims 1-15, drawn to a solid form of an anti-EGFR-antibody, variant or fragment thereof. The election is made with traverse for the reasons set forth below. Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter.

The basis alleged for restriction between and product claims of Group I and the method of use claims of Group II is that the Shenoy teaches a biologically active crystal form of an anti-EGFR antibody, Trastuzumab (Herpccetin) and, therefore, there is no patentable linking feature of the claimed invention between the two Groups. Applicants respectfully disagree with the alleged factual basis for the restriction. Trastuzumab (Herpccetin) is a humanized monoclonal antibody that acts on the HER2/neu (erbB2) receptor. Shenoy merely lists anti-EGFR antibodies under examples of anti-growth factor antibodies (paragraph 0234 of Shenoy). Shenoy makes no disclosure regarding actual preparation of crystal forms of anti-EGFR antibodies or how such could be prepared. Shenoy discusses the problems one of ordinary skill in the art has when working on therapeutic antibodies, pharmaceutical formulations and delivery systems. The difficulties of crystallizing antibodies and the fact that few antibodies have ever been crystallized is also discussed in Shenoy; see, e.g., paragraphs 0005 – 0010. Accordingly, it is submitted that Shenoy does not actually teach a crystal form of an anti-EGFR antibody or how to prepare such. Accordingly, the premise for the restriction is not supported.

For all of the above reasons, it is urged that the restriction requirement should be

withdrawn, in total. Favorable action is earnestly solicited.

Applicants note the indication in the Office action regarding rejoinder of method claims. It is submitted that, should the restriction requirement be maintained, the restricted claims here would be subject to rejoinder.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/John A. Sopp/

John A. Sopp, Reg. No. 33,103
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

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